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**MEMORANDUM**

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**TO:** JOHN P. BOHENKO, CITY MANAGER  
**FROM:** JULIET T.H. WALKER, PLANNING DIRECTOR *JTW*  
**SUBJECT:** PROPOSED LAND SWAP AND CATE STREET CONNECTOR ROAD  
DEVELOPMENT AGREEMENT  
**DATE:** JULY 9, 2019

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Two items are included in the Council's packet this week related to the future construction of what has been referenced as the "Cate Street Connector Road". The connector road, as described in the City's Capital Improvement Plan, would provide direct access between Bartlett Street to the Borthwick Avenue traffic signal on Route 1 Bypass. At the Bartlett Street end, the proposed road would follow the existing Cate Street right-of-way for approximately 250' and then travel across what is currently private property to connect to the Bypass. The proposed land swap would convey to the City the portion of private property required to complete the new road in return for a portion of what is currently City land to be used by a private developer for the construction of the proposed West End Yards mixed-use development project. In addition, the proposed development agreement to be entered into between the City and the project developer outlines the specifics of the conveyance of land as well as the allocation of responsibility for construction and funding of the new public road.

These two items are being provided for information purposes at this time with an anticipated vote on each item planned for the August 12, 2019 Council meeting.

**Proposed Land Swap**

On February 14, 2019, Attorney Bosen submitted a letter to the City Manager on behalf of his client, Cate Street Development LLC, requesting a land swap that would convey 136,919 square feet of private land to the City in exchange for 47,470 square feet of City land.

On February 19, 2019, the City Council voted to refer the request to the Planning Board for a recommendation. Per Chapter 11, Article VI of the City Ordinances any municipal actions relating to land acquisition or disposition shall be referred to the Planning Board for a recommendation. Approval of this land swap would provide the right-of-way for the creation of a new City road extending between Bartlett Street and US Route 1 Bypass to be built either now, or in the future. In addition, the developer would be conveyed a portion of the existing Cate Street right-of-way as well as an existing City-owned parcel that would be incorporated into a proposed mixed use development currently known as West End Yards. *At the March 21, 2019 Planning Board meeting, the Board voted to recommend approval of the land swap to the City Council.*

As with any proposed disposition or acquisition of land by the City, City staff have also completed a review of public records and documentation to identify any applicable regulations as well as the location of easements, utilities, or other potential encumbrances on the land. Staff undertakes this review to determine if there are any issues or information that requires further research or clarification prior to final conveyance. As a result of this review, the City has contracted with Ransom Consulting to complete a Phase 1 Environmental Services Assessment of the property to be acquired by the City. The City has also contracted with outside legal counsel – the law firm of Bernstein Shur – to complete any legal due diligence related to the land swap. Costs for both of these services are being carried by the developer.

If the Council approves the land swap, actual design, construction, and acceptance of the road will still require final approval by the City Council and a recommendation from the Planning Board per Chapter 11, Article VI, of the City Ordinances. The Planning Board is currently reviewing roadway plans in conjunction with the site review and subdivision applications for the proposed mixed use project.

### **Development Agreement**

A development agreement is intended to be a contract between a local jurisdiction (the City) and a person or entity who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property. In this case, the purpose of the proposed development agreement is to lay out the specific responsibilities of the City and the developer regarding the transfer of ownership of land as well as funding and construction for the new public road, off-site public infrastructure improvements, and additional on-site public improvements to benefit the public. A brief summary of the key provisions of the agreement is provided below:

#### *A. Costs proposed to be the sole responsibility of the developer:*

- Planning, design, permitting and construction documents prepared related to the public road prior to the approval of the development agreement are the sole responsibility of the developer.
- Relocation of public sewer and water lines currently located on private property with the exception of a portion of a public sewer line that currently extends from the Route 1 Bypass to the rear of the existing U-Haul property for which the City has no documented easement.
- Public realm improvements within land to be transferred to the City including a multi-use path, landscaping and amenities, and stormwater treatment along the northern side of the proposed road paralleling Hodgson Brook.
- Design, permitting, engineering, and construction of all utilities and upgrades required to service the new mixed used development.
- City's legal fees and costs associated with the land swap.

#### *B. Costs proposed to be shared equally by the City and the developer:*

- Engineering, permitting, and construction of the proposed public road. Note that the public road includes only the roadway, street lighting, and the proposed sidewalk along the southern side.
- Engineering, permitting, and construction of the improvements to the intersection with Route 1 Bypass.

*C. Transfer of land for new road:*

- The transfer of land for the a public road shall be transferred to the City regardless of whether the City Council approves construction of the new road at this time. This will enable the City to move forward with construction of the road, at its sole cost, at a future date if desired.
- If the Council does not approve funding for construction at this time, the Developer will have the right to construct (at their sole cost) a driveway across the City's property for the purposes of accessing the new development.